

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

RONALD HUSBAND

PETITIONER

VERSUS

CIVIL ACTION NO. 1:10-cv-466-HSO-JMR

JOHNNY DENMARK

RESPONDENT

**ORDER DENYING MOTION FOR COLLATERAL RELIEF PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 60(b)**

This matter is before the Court on Movant Ronald Husband's Motion [32] for Collateral Relief Pursuant to Federal Rule of Civil Procedure 60(b). Respondent has filed a Response [33] and Husband a Rebuttal [34] . Having considered the record and relevant legal authorities, the Court finds that Husband's Motion [32] should be denied.

In his Motion, Husband asserts claims attacking the validity of his conviction which he previously raised in his 28 U.S.C. § 2254 Petition [1] or which he now raises for the first time. A Rule 60 motion which reiterates arguments previously made or otherwise asserts claims attacking the validity of a conviction constitutes a second or successive application for writ of habeas corpus. *United States v. Rich*, 141 F. 3d 550, 551 (1998). Before filing a second or successive application for writ of habeas corpus in this Court, Husband must first seek and obtain the approval of the Fifth Circuit Court of Appeals. 28 U.S.C. § 2244(3)(A) ("Before a second or successive application . . . is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application."). The Court cannot consider a successive application by

Husband unless and until the Fifth Circuit issues an order authorizing the Court to do so. Because Husband's Motion [32] constitutes a successive application for writ of habeas corpus, it is improperly before the Court and should be denied.

IT IS, THEREFORE, ORDERED AND ADJUDGED that Movant Ronald Husband's Motion [32] for Collateral Relief Pursuant to Federal Rule of Civil Procedure 60(b) is **DENIED**.

SO ORDERED AND ADJUDGED, this the 2nd day of April, 2014.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE